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12 ABERCROMBIE & FITCH STORES, INC. dba  
HOLLISTER CO, HOLLISTER CO. CALIFORNIA,  
13 LLC

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 U.S. EQUAL EMPLOYMENT  
17 OPPORTUNITY COMMISSION,

Case No.: CV 11-3162 YGR

18 Plaintiff,

and

19 UMME-HANI KHAN,

**JOINT NOTICE OF EFFORTS TO MEET**  
**AND CONFER ; AND ORDER RE SAME**

20 Plaintiff-Intervenor

21 vs.

22 ABERCROMBIE & FITCH STORES, INC.  
dba HOLLISTER CO., HOLLISTER CO.  
23 CALIFORNIA, LLC,

24 **Defendants.**

25  
26 On January 29, 2013, the Court held a hearing on Defendants' Motion for Sanctions [Doc.  
27 #68] filed against CAIR-California ("CAIR-CA") based upon CAIR-CA's purported failure to  
28 provide a 30(b)(6) witness as ordered by the Court. At the conclusion of the hearing, the Court

1 instructed Counsel for Defendants and Counsel for CAIR-CA to meet in-person and to discuss  
2 what subjects Defendants still needed CAIR-CA to provide testimony on. Counsel for Defendants  
3 and for CAIR-CA met for nearly two hours following the hearing.

4 **A. Subjects for Further Inquiry**

5 Defendants identified two topics that are within the scope of the Court's October 17, 2012  
6 Order that additional testimony from a CAIR-CA designated witness is needed. First, Defendants  
7 need CAIR-CA to testify to its non-privileged, relevant communications with the EEOC during  
8 the EEOC's investigation and conciliation process, including the offer of reinstatement.  
9 Second, Defendants requested that CAIR-CA provide testimony regarding non-privileged,  
10 relevant communications with Ms. Khan regarding Abercrombie or her allegations against  
11 Abercrombie or CAIR-CA's communications regarding Ms. Khan's allegations. To further  
12 specify the communications at issue in greater detail, Defendants explained that the exhibits from  
13 Mr. Ayloush's deposition reflect statements by CAIR-CA or its representatives regarding Ms.  
14 Khan's allegations. For the statements reflected in the exhibits, Defendants are interested in  
15 whether the statement was made based upon information provided to CAIR-CA by Ms. Khan or  
16 by Abercrombie.  
17

18 **B. Process for Obtaining Testimony**

19 Defendant had envisioned that CAIR-CA would provide a designated witness for  
20 deposition. However, Counsel for CAIR-CA suggested that many of the subjects could be easily  
21 addressed by CAIR-CA in a sworn declaration or affidavit rather than through another deposition.  
22 Given that Defendants have already expended time and resources on a deposition, both parties  
23 agreed that CAIR-CA will provide written sworn testimony in response to specific questions  
24 identified by Abercrombie. Counsel discussed a process whereby Abercrombie would provide  
25 within 7 days written questions to CAIR-CA addressing specific matters related to the above-  
26 described topics. CAIR-CA would provide answers in writing and under oath by an adequate  
27  
28

1 representative 14 days thereafter. Ideally, CAIR-CA's written answers would be sufficient and  
2 would avoid the need for a deposition. However, given the limitations of written testimony,  
3 Abercrombie reserves the right to take the deposition if still necessary after Defendants have  
4 received CAIR-CA's written responses, and have met and conferred with CAIR-CA regarding any  
5 outstanding issues, in the event that CAIR-CA's written responses were inadequate, unclear, or  
6 incomplete. CAIR-CA reserves the right to seek the Court's protection if CAIR-CA believes that  
7 Defendants' attempt is not necessary and after the parties meet and confer.  
8  
9

10 Respectfully submitted,

11 /s/Daniel J. Clark

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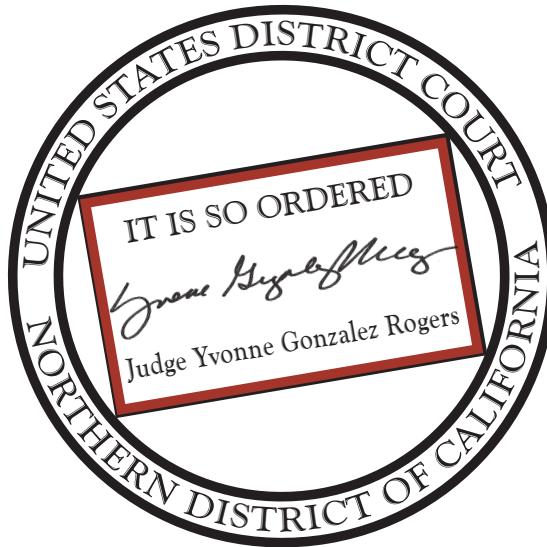
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5 Attorneys for Third-Party CAIR-CA

6 ORDER

7 The Court ORDERS that Defendants and third-party CAIR exchange  
8 the information as set forth herein.

9  
10 Dated: February 5, 2013



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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **JOINT NOTICE OF  
EFFORTS TO MEET AND CONFER** was electronically filed on January 30, 2013, with the  
Clerk of Court through the CM/ECF system, which will send notice of electronic filing to the  
following:

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